

SOUTH K BEACH INDEPENDENT

RC 070

FISHERMEN'S ASSOCIATION

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Protecting and Preserving the Kasilof River Aquarian System

March 20, 2014

Alaska Board of Fisheries
Board Support Section
P.O. Box 115526
Juneau, Alaska 99811-5526

RE: Emergency Petition / Regulatory Petition, Petition #1

Amendments to 5 AAC 21.359 as adopted 02.05.14 through the passage of UCI proposal 209 as modified by RC 151

Chairman Karl Johnstone,

South K-Beach Independent Fishermen's Association (SOKI) is a fishing group established to inform and comment on specific effects of management and environmental actions on the area designated by stat area (244-31) adjacent to the mouth of the Kasilof River.

AS 44.62.220 Right to Petition, 5 AAC 96.625 Joint board petition policy, 85-16-JB Joint Board Petition Policy (BOF&G) and 2000-203-BOF Policy On Emergency Petition Process.

The BOF has the authority to accept a petition ...*for the adoption, amendment, or repeal of a regulation.*

The Board has a definition for an emergency ...*as an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.*

The Board has also recently adopted; **Operating Procedures Policy to not use Motion to Rescind** which states that ...*several methods to take action to repeal or change regulations. These procedural tools include Agenda Change Requests, Motions to Reconsider, Board Generated Proposals, and Emergency Petitions.* This "new" policy declines to use the *Roberts Rules of Order* guidelines for a procedural motion to rescind a previous board action.

SOKI requests the Alaska Board of Fish (BOF) to amend or change language in the provisions adopted in modified **5 AAC 21.359 Kenai River Late-Run King Salmon Management Plan.** (b) (3),(4)

We are requesting the Board to accept this emergency petition to allow a more equitable opportunity to harvest sockeye bound for the Kenai and Kasilof rivers and manage for abundance based concentrations in times of low king salmon returns. The Kenai and Kasilof Rivers sockeye runs are uniquely different spatially and temporally. The Board changed

management regulations in August to reflect the differences in late season concentrations of sockeye available to the Kenai or Kasilof district setnet beaches. The one percent closure rule now takes into consideration the different production overall per beach and then determines the harvest over two periods in August. This means that the Kasilof district will probably close earlier than the Kenai district in many years. This discussion by board members did not include a clear justification so it is our intention to assist the board in clarifying the "decoupling" of these two districts for management purposes as stated within this new modified language from the adoption of RC 151.

The two areas are managed through two separate plans for their respective sockeye returns. The Kasilof is managed through **5 AAC 21.365** and the Kenai through **5 AAC 21.360**. The Kasilof may open as early as June 20th and the Kenai opens July 8th. Both districts are managed by the **Kenai River Late-Run King Salmon Management Plan**. Adoption of the new provisions changes the way managers will be addressing the escapement goals in these respective systems for sockeye.

Traditionally and to provide an orderly fishery, emergency order (EO) time was administered for the health and safety and well being of the district fishermen to target concentrations of sockeye when are where available. Restrictions of EO time allowed due to this current rule change will hinder reasonable opportunity and create irreparable harm to the historical fisheries which are classified as directed sockeye harvesters. In order to maximize the individual districts and afford them a reasonable opportunity to harvest concentrations of sockeye, SOKI would like to offer this change in language;

(B) notwithstanding the provisions of 5 AAC 21.360(c), open fishing periods in the commercial set gillnet fishery in the Upper Subdistrict, based on the abundance of sockeye salmon returning to the Kenai District and Kasilof District [rivers], each respective District will be allowed [for] no more than 36 hours per week, with a 36-hour continuous closure as described in 5 AAC 21.360 (c) (2) (C) during which

SOKI does not believe that with these current restrictions in place that the ESSN beaches extending some 70 beach miles can be treated the same or have the same concentrations of salmon available to them at any particular time. The attempt here is to relieve some of the inequities and to assist the managers in targeting openings that will give the most opportunity to harvest abundant sockeye while still allowing some management flexibility. Exceptions in the current **5 AAC 21.360 Kenai River Late-Run Sockeye Management Plan** allowed for differential openings for the Kasilof District and now with the "*notwithstanding*" clause this option is not available to area managers.

We believe that; a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

Thank you,

Paul A. Shadura II
Spokesperson

Conflicting issues to consider with the Kenai River Late-Run King Management Plan

- Kasilof Section
 - June 25 – June 30 Managed under Kasilof Plan, June 29 – 30 is the start of new week, are these days included in the 36 hours, which do not technically start until July 1st?
 - What about EO hours under the existing Kasilof Plan, hence EO on June 29?

- July 1, Beginning of the Kenai River Late-Run King Management Plan
 - The entire East Side Set Net (ESSN) is now limited to no more than 36 hours of fishing time per week
 - 3 nets @ 29 meshes or 2 nets @ 45 meshes
 - 2 nets @ 29 meshes or 1 net @ 45 meshes
 - If the inriver fishery goes to catch and release the ESSN fishery is limited to no more than 12 hours of fishing time in a week, without gear restrictions
 - Management of the two fisheries is now duplicitous
 - The inriver fishery is now managed to meet the SEG 15,000 – 30,000
 - The ESSN fishery is to be managed to meet the SEG 15,000 – 30,000
 - Is the ESSN fishery to be managed (16,500 – 22,500) under the 36 hour restriction from August 1-15?
 - Is the ESSN fishery to be managed (22,500 – 30,000) with no hourly limitation?

- If the escapement of Kenai River king salmon will be 15,500 fish on July 31, will the inriver fishery be allowed to proceed, at any level they desire, as long as they do not fall below the 15,000?
- How would the Department fish the ESSN fishery on this projection knowing that they will still be fishing after August 1, with a minimum escapement of 16,500? The answer is likely “NO” as the burden to meet the 16,500 is now solely on the ESSN.
- This plan was sold as flexibility.
- It is possible that the burden will be enforced upon the ESSN fishery even early in July to ensure that we meet the 16,500 in August, while the inriver fishery stays open.
- The two fisheries are now held to different duplicitous standards. Flexibility? The burden of conservation, from 15,000 to 16,500 is on the ESSN.
- What does 15,000 estimated sonar passage mean in real numbers? The department admits they are undercounting. The early run may be off by 200 to 300%. There is not as much error in the late-run, but undercounting is still going on. How much more of a safety factor is needed?